

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

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Gensing Cokley,	)	
	)	
Petitioner,	)	
	)	
vs.	)	C.A. No. 2:12-2987-RMG
	)	
Warden of Kirkland Correctional	)	
Institution,	)	
	)	<b>ORDER</b>
Respondent.	)	
	)	

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This matter is before the Court on the Magistrate Judge's recommendation that Respondent's motion for summary judgment be granted, Petitioner's habeas petition be dismissed, and a certificate of appealability be denied. (Dkt. No. 27). Petitioner brought this petition for a writ of habeas corpus *pro se* pursuant to 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b) and Local Rule 72.02(B)(2) DSC, this matter was referred to the Magistrate Judge for pretrial proceedings. The Magistrate Judge issued a Report and Recommendation to the Court, as set forth above, on June 20, 2013. Petitioner was advised by the Magistrate Judge that he had fourteen days from the service of the Report and Recommendation to file any specific written objections to the Report and Recommendation and that a failure to file timely written objections would result in limited review by the District Court and waiver of the right to appeal. (Dkt. No. 27 at 17). Petitioner has filed no timely objections to the Magistrate Judge's Report and Recommendation.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with

this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The District Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection has been made. In the absence of specific objections to the Report and Recommendation, this Court is not required to provide any explanation for adopting the recommendation and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After reviewing the record, the applicable legal authorities, and the Report and Recommendation of the Magistrate Judge, the Court finds that the Magistrate Judge applied sound legal principles to the facts of the case. Therefore, this Court hereby ADOPTS the Magistrate Judge’s Report and Recommendation as the order of this Court, Respondent’s motion for summary judgment (Dkt. No. 20) is GRANTED, and Petitioner’s habeas petition is DISMISSED WITH PREJUDICE.

### **Certificate of Appealability**

The governing law provides that:

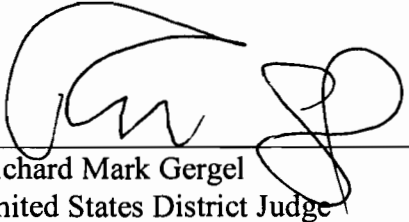
(C)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(C)(3) A certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required in paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this Court’s assessment of his constitutional claims debatable or wrong and that any dispositive procedural ruling by the District Court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*,

252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, the certificate of appealability is DENIED.

AND IT IS SO ORDERED.



Richard Mark Gergel  
United States District Judge

Charleston, South Carolina  
July 15, 2013